

THIRD DIVISION

[G.R. No. 211666, February 25, 2015]

**REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE
DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS,
PETITIONERS, VS. ARLENE R. SORIANO, RESPONDENT.**

D E C I S I O N

PERALTA, J.:

Before the Court is a petition for review under Rule 45 of the Rules of Court assailing the Decision^[1] dated November 15, 2013 and Order^[2] dated March 10, 2014 of the Regional Trial Court (RTC), Valenzuela City, Branch 270, in Civil Case No. 140-V-10.

The antecedent facts are as follows:

On October 20, 2010, petitioner Republic of the Philippines, represented by the Department of Public Works and Highways (DPWH), filed a Complaint^[3] for expropriation against respondent Arlene R. Soriano, the registered owner of a parcel of land consisting of an area of 200 square meters, situated at Gen. T. De Leon, Valenzuela City, and covered by Transfer Certificate of Title (TCT) No. V-13790.^[4] In its Complaint, petitioner averred that pursuant to Republic Act (RA) No. 8974, otherwise known as "An Act to Facilitate the Acquisition of Right-Of-Way, Site or Location for National Government Infrastructure Projects and for other Purposes," the property sought to be expropriated shall be used in implementing the construction of the North Luzon Expressway (NLEX)- Harbor Link Project (Segment 9) from NLEX to MacArthur Highway, Valenzuela City.^[5]

Petitioner duly deposited to the Acting Branch Clerk of Court the amount of P420,000.00 representing 100% of the zonal value of the subject property. Consequently, in an Order^[6] dated May 27, 2011, the RTC ordered the issuance of a Writ of Possession and a Writ of Expropriation for failure of respondent, or any of her representatives, to appear despite notice during the hearing called for the purpose.

In another Order^[7] dated June 21, 2011, the RTC appointed the following members of the Board of Commissioners for the determination of just compensation: (1) Ms. Eunice O. Josue, Officer-in-Charge, RTC, Branch 270, Valenzuela City; (2) Atty. Cecilynne R. Andrade, Acting Valenzuela City Assessor, City Assessor's Office, Valenzuela City; and (3) Engr. Restituto Bautista, of Brgy. Bisig, Valenzuela City. However, the trial court subsequently revoked the appointment of the Board for their failure to submit a report as to the fair market value of the property to assist the court in the determination of just compensation and directed the parties to submit their respective position papers.^[8] Thereafter, the case was set for hearing giving the parties the opportunity to present and identify all evidence in support of their arguments therein.

According to the RTC, the records of the case reveal that petitioner adduced evidence to show that the total amount deposited is just, fair, and equitable. Specifically, in its Position Paper, petitioner alleged that pursuant to a Certification issued by the Bureau of Internal Revenue (*BIR*), Revenue Region No. 5, the zonal value of the subject property in the amount of P2,100.00 per square meter is reasonable, fair, and just to compensate the defendant for the taking of her property in the total area of 200 square meters.^[9] In fact, Tax Declaration No. C-018-07994, dated November 13, 2009 submitted by petitioner, shows that the value of the subject property is at a lower rate of P400.00 per square meter. Moreover, as testified to by Associate Solicitor III Julie P. Mercurio, and as affirmed by the photographs submitted, the subject property is poorly maintained, covered by shrubs and weeds, and not concretely-paved. It is located far from commercial or industrial developments in an area without a proper drainage system, can only be accessed through a narrow dirt road, and is surrounded by adjacent dwellings of sub-standard materials.

Accordingly, the RTC considered respondent to have waived her right to adduce evidence and to object to the evidence submitted by petitioner for her continued absence despite being given several notices to do so.

On November 15, 2013, the RTC rendered its Decision, the dispositive portion of which reads:

WHEREFORE, with the foregoing determination of just compensation, judgment is hereby rendered:

- 1) Declaring plaintiff to have lawful right to acquire possession of and title to 200 square meters of defendant Arlene R. Soriano's parcel of land covered by TCT V-13790 necessary for the construction of the NLEX – Harbor Link Project (Segment 9) from NLEX to MacArthur Highway Valenzuela City;
- 2) Condemning portion to the extent of 200 square meters of the above-described parcel of land including improvements thereon, if there be any, free from all liens and encumbrances;
- 3) Ordering the plaintiff to pay defendant Arlene R. Soriano Php2,100.00 per square meter or the sum of Four Hundred Twenty Thousand Pesos (Php420,000.00) for the 200 square meters as fair, equitable, and just compensation with legal interest at 12% per annum from the taking of the possession of the property, subject to the payment of all unpaid real property taxes and other relevant taxes, if there be any;
- 4) Plaintiff is likewise ordered to pay the defendant consequential damages which shall include the value of the transfer tax necessary for the transfer of the subject property from the name of the defendant to that of the plaintiff;
- 5) The Office of the Register of Deeds of Valenzuela

City, Metro Manila is directed to annotate this Decision in Transfer Certificate of Title No. V-13790 registered under the name of Arlene R. Soriano.

Let a certified true copy of this decision be recorded in the Registry of Deeds of Valenzuela City.

Records of this case show that the Land Bank Manager's Check Nos. 0000016913 dated January 21, 2011 in the amount of Php400,000.00 and 0000017263 dated April 28, 2011 in the amount of Php20,000.00 issued by the Department of Public Works and Highways (DPWH) are already stale. Thus, the said Office is hereby directed to issue another Manager's Check in the total amount Php420,000.00 under the name of the Office of the Clerk of Court, Regional Trial Court, Valenzuela City earmarked for the instant case.^[10]

Petitioner filed a Motion for Reconsideration maintaining that pursuant to Bangko Sentral ng Pilipinas (BSP) Circular No. 799, Series of 2013, which took effect on July 1, 2013, the interest rate imposed by the RTC on just compensation should be lowered to 6% for the instant case falls under a loan or forbearance of money.^[11] In its Order^[12] dated March 10, 2014, the RTC reduced the interest rate to 6% per annum not on the basis of the aforementioned Circular, but on Article 2209 of the Civil Code, viz.:

However, the case of National Power Corporation v. Honorable Zain B. Angas is instructive.

In the aforementioned case law, which is similar to the instant case, the Supreme Court had the occasion to rule that it is well-settled that the aforequoted provision of Bangko Sentral ng Pilipinas Circular applies only to a loan or forbearance of money, goods or credits. However, the term "judgments" as used in Section 1 of the Usury Law and the previous Central Bank Circular No. 416, should be interpreted to mean only judgments involving loan or forbearance of money, goods or credits, following the principle of *ejusdem generis*. And applying said rule on statutory construction, the general term "judgments" can refer only to judgments in cases involving loans or forbearance of any money, goods, or credits. Thus, the High Court held that, Art. 2209 of the Civil Code, and not the Central Bank Circular, is the law applicable.

Art. 2009 of the Civil Code reads:

"If the obligation consists in the payment of a sum of money, and the debtor incurs in delay, the indemnity for damages, there being no stipulation to the contrary, shall be the payment of the interest agreed upon, and in the absence of stipulation, the legal interest, which is six per cent per annum."

Further in that case, the Supreme Court explained that the transaction involved is clearly not a loan or forbearance of money, goods or credits but expropriation of certain parcels of land for a public purpose, the payment of which is without stipulation regarding interest, and the interest adjudged by the trial court is in the nature of indemnity for damages. The legal interest required to be paid on the amount of just compensation for the properties expropriated is manifestly in the form of indemnity for damages for the delay in the payment thereof. It ultimately held that Art. 2209 of the Civil Code shall apply.^[13]

On May 12, 2014, petitioner filed the instant petition invoking the following arguments:

I.

RESPONDENT IS NOT ENTITLED TO THE LEGAL INTEREST OF 6% PER ANNUM ON THE AMOUNT OF JUST COMPENSATION OF THE SUBJECT PROPERTY AS THERE WAS NO DELAY ON THE PART OF PETITIONER.

II.

BASED ON THE NATIONAL INTERNAL REVENUE CODE OF 1997 AND THE LOCAL GOVERNMENT CODE, IT IS RESPONDENT'S OBLIGATION TO PAY THE TRANSFER TAXES.

Petitioner maintains that if property is taken for public use before compensation is deposited with the court having jurisdiction over the case, the final compensation must include interests on its just value computed from the time the property is taken up to the time when compensation is actually paid or deposited with the court.^[14] Thus, legal interest applies only when the property was taken prior to the deposit of payment with the court and only to the extent that there is delay in payment. In the instant case, petitioner posits that since it was able to deposit with the court the amount representing the zonal value of the property before its taking, it cannot be said to be in delay, and thus, there can be no interest due on the payment of just compensation.^[15] Moreover, petitioner alleges that since the entire subject property was expropriated and not merely a portion thereof, it did not suffer an impairment or decrease in value, rendering the award of consequential damages nugatory. Furthermore, petitioner claims that contrary to the RTC's instruction, transfer taxes, in the nature of Capital Gains Tax and Documentary Stamp Tax, necessary for the transfer of the subject property from the name of the respondent to that of the petitioner are liabilities of respondent and not petitioner.

The petition is partly meritorious.

At the outset, it must be noted that the RTC's reliance on *National Power Corporation v. Angas* is misplaced for the same has already been overturned by our more recent ruling in *Republic v. Court of Appeals*,^[16] wherein we held that the payment of just compensation for the expropriated property amounts to an effective

forbearance on the part of the State, to wit:

Aside from this ruling, Republic notably overturned the Court's previous ruling in *National Power Corporation v. Angas* which held that just compensation due for expropriated properties is not a loan or forbearance of money but indemnity for damages for the delay in payment; since the interest involved is in the nature of damages rather than earnings from loans, then Art. 2209 of the Civil Code, which fixes legal interest at 6%, shall apply.

In Republic, the Court recognized that the just compensation due to the landowners for their expropriated property amounted to an effective forbearance on the part of the State. Applying the *Eastern Shipping Lines* ruling, the Court fixed the applicable interest rate at 12% per annum, computed from the time the property was taken until the full amount of just compensation was paid, in order to eliminate the issue of the constant fluctuation and inflation of the value of the currency over time. In the Court's own words:

The Bulacan trial court, in its 1979 decision, was correct in imposing interest[s] on the zonal value of the property to be computed from the time petitioner instituted condemnation proceedings and "took" the property in September 1969. This allowance of interest on the amount found to be the value of the property as of the time of the taking computed, being an effective forbearance, at 12% per annum should help eliminate the issue of the constant fluctuation and inflation of the value of the currency over time.

We subsequently upheld Republic's 12% per annum interest rate on the unpaid expropriation compensation in the following cases: *Reyes v. National Housing Authority*, *Land Bank of the Philippines v. Wycoco*, *Republic v. Court of Appeals*, *Land Bank of the Philippines v. Imperial*, *Philippine Ports Authority v. Rosales-Bondoc*, and *Curata v. Philippine Ports Authority*.^[17]

Effectively, therefore, the debt incurred by the government on account of the taking of the property subject of an expropriation constitutes a forbearance^[18] which runs contrary to the trial court's opinion that the same is in the nature of indemnity for damages calling for the application of Article 2209 of the Civil Code. Nevertheless, in line with the recent circular of the Monetary Board of the Bangko Sentral ng Pilipinas (BSP-MB) No. 799, Series of 2013, effective July 1, 2013, the prevailing rate of interest for loans or forbearance of money is six percent (6%) per annum, in the absence of an express contract as to such rate of interest.

Notwithstanding the foregoing, We find that the imposition of interest in this case is unwarranted in view of the fact that as evidenced by the acknowledgment receipt^[19] signed by the Branch Clerk of Court, petitioner was able to deposit with the trial court the amount representing the zonal value of the property before its taking. As often ruled by this Court, the award of interest is imposed in the nature